

Meeting Minutes November 18, 2004

Town of Los Altos Hills City Council Regular Meeting

Thursday, November 18, 2004 6:00 P.M.
Bullis School Multi-Purpose Room, 25890 Fremont Road

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor O'Malley called the Regular Meeting of the City Council to order at 6:00 p.m. in the Bullis School Multi-Purpose Room at Town Hall Temporary Offices.

Present: Mayor Mike O'Malley, Mayor Pro Tem Breene Kerr, Councilmember Emily Cheng, Councilmember Bob Fenwick and Councilmember Dean Warshawsky

Absent: None

Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas, Planning Director Carl Cahill, Acting City Engineer/Director of Public Works Dave Ross, Administrative Services Director Sarah Joiner, Parks and Recreation Supervisor Jimmy Forbis and City Clerk Karen Jost

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Cheng and passed unanimously to limit the length of time for public comments to three minutes.

2. APPOINTMENTS AND PRESENTATIONS

None

3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill reported that the deconstruction of the building on the former Campbell-Ligeti property, which is now owned by Pinewood School, had begun. He noted that the work should take between ten and twelve weeks. They are attempting to recycle as many materials as possible during the deconstruction process and would not be using pull dozers or excavators.

4. CONSENT CALENDAR

Items Removed: 4.4 (O'Malley) and 4.8 (O'Malley)

MOTION SECONDED AND CARRIED: Moved by Cheng, seconded by Kerr and passed unanimously to approve the Consent Calendar, specifically:

4.1 Approval of Minutes: Regular City Council Meeting November 4, 2004

- 4.2 Review of Disbursements: 10/30/2004 – 11/09/2004 \$479,424.92
- 4.3 Investment Report for the Quarter ended September 30, 2004
- 4.5 Approval of Revisions to Standing Committee Resolution No. 70-03-Adding Associate Committee Members and Specifying the Duties of Committee Chairs –Resolution No.77-04
- 4.6 Approval of Proposal for Audio-Visual Design Services (New Town Hall) Resolution No. 78-04
- 4.7 Approval of Change Order for Revised Photovoltaic Design (New Town Hall) Resolution No. 79-04
- 4.9 Notification of Continuation of AT&T Wireless Sublease with the Town of Los Altos Hills as Master Lessor for Site and Communications Equipment-Town Playing Fields, Purissima Road near Viscaino

Items Removed:

- 4.4 Amendment to the Town of Los Altos Hills Zoning Ordinance Title 10, Chapter 1, Article 2 “Definitions” and Title 10, Chapter 1, Article 7 “Residential-Agricultural District (R-A)” Ordinance 437
- 4.8 Approval of a Request for Time Extension of Site Development Permit, Lands of Askari, 27820 Elena Road (Parcel A) (187-02-ZP-SD-GD)

Mayor O’Malley requested clarification of consent item 4.4 and item 4.8.

(4.4) City Attorney Steve Mattas explained that the Ordinance had been introduced at the November 4, 2004 City Council meeting and this was the second and final reading and adoption.

(4.5) Planning Director Carl Cahill explained that this was the standard procedure for granting project applicants a reasonable extension of time to complete previously approved projects.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Cheng and passed unanimously to approve agenda item 4.4 and agenda item 4.8.

5. UNFINISHED BUSINESS

5.1 Town Goals

5.1.1 Complete Town Hall On Time and On Budget

5.1.1a TBI Update

Mayor Pro Tem Kerr reported that the New Town Hall project was moving along well. TBI Construction Management had provided a status report to the New Town Hall Committee at their regular monthly meeting.

Tony Vierra, TBI, provided Council with a project update. He reported that the steel installation was complete, the alternate solar panel had been approved by the New Town Hall Committee, the exterior material for the building had been approved by the Committee but the color had not yet been finalized by the Architect, the security system and cabling bids are nearing completion and the project completion date remains targeted for the end of March, 2005.

5.1.2 Identify and Fund Underground Project

Councilmember Warshawsky reconfirmed that PG&E had approved both of the Town's proposed routes for the Pilot Undergrounding Project, specifically; the Purissima Road route near the Little League playing fields and the Altamont Road route near Byrne Preserve. The Undergrounding Committee had met with Acting City Engineer Dave Ross to discuss Mark Thomas & Company and Ross providing consulting services for the management and design of the project. A proposal from the firm would be forwarded to Council for their consideration at the next regular meeting. Warshawsky noted that the Committee had sought clarification from the City Attorney's office on Rule 20A parameters. City Attorney Mattas reported that he had been successful in making contact with the various utility agencies and would be sharing a memo with the Council on his findings in the near future.

Councilmember Warshawsky noted that a resolution would be forwarded to the Council for their consideration at the next regular City Council meeting that would identify the Town as the trenching agent for the project. This would start the process with PG&E for inclusion of the Town as applicants for Rule 20A funds and the Undergrounding Project.

5.1.3 Complete Master Pathway Map

Chris Vargas, Pathways Committee Chair, reported that the Committee was on schedule to complete their review of the Pathways Map by mid December. He suggested that it would be appropriate for the Council to begin considering timing of the Planning Commission's review of their final version of the map. Vargas added that they had received a positive response from the City Attorney's office regarding easement questions and private roads. The memo was still under review and would be forwarded to Council. He distributed a spreadsheet of proposed Pathways projects and requested guidance in prioritizing them.

Mayor O'Malley expressed his appreciation for the efforts of the Pathways Committee on completing this lengthy review process and suggested that it would be appropriate to finalize the Master Pathway Map before moving forward with pathway projects. Vargas concurred.

Council discussed the proposed schedule for public hearings on the Master Pathway Map.

Vargas suggested a tentative schedule. He proposed that the map be forwarded to the Planning Commission in January and a joint meeting with the Planning Commission and Pathways Committee be scheduled at that time. The map would be forwarded to the Council for consideration and a public hearing in February.

Councilmember Cheng requested that the City Council consider scheduling the map review at their February 17, 2004 meeting. Mayor Pro Tem Kerr requested that hearings not be scheduled during any school holidays. Council suggested a completion date of February 28, 2004.

Mayor O'Malley offered that he and Councilmember Warshawsky work with the Committee to finalize a schedule.

Staff requested clarification on the appropriate notice for the public hearings. Council directed staff to have Town wide notices for the public hearings.

5.2 Consideration of Parks and Recreation Committee's Recommendation to Develop Recreation Facilities at the Town Riding Ring.

Parks and Recreation Supervisor Jimmy Forbis introduced this item to Council. He explained that at the August 19, 2004 City Council meeting, the Parks and Recreation Department, on behalf of the Committee submitted the completed Strategic Action Plan to the Council. The Strategic Action Plan identified the Town Riding Ring as a primary site for recreation facility development due to many opinions that had been received that the facility was underutilized. In the past, the property had been maintained through an agreement with the Los Altos Horseman's Association. However, the ring had not been properly maintained in recent years and it's condition presented a significant liability to the Town. The Town had posted the facility with a "Use at your own Risk. User assumes that risk whether known or unknown". Forbis explained that the Parks and Recreation Committee was requesting Council's approval to seek proposals for the development of recreational facilities to replace the Town Riding Ring and should the Town proceed with new facilities, the existing agreement between the Town and the Los Altos Hills Horseman's Association would be terminated upon 30-day written notification. He noted that the Town had Park Bond funding available for qualified projects in the amount of \$319,167. With Council's approval, staff would develop a request for proposals document for the design, development and construction of recreational facilities. After proposals are received, public meetings would be held to allow neighbors and residents the opportunity to give input on a project before submittal to the City Council. Forbis noted that it was anticipated that a recommended project would be presented to the Council in February 2005.

OPENED PUBLIC COMMENT

Karla Jurvetson, Bullis Charter School Site Committee Co-Chair, explained that the Town Riding Ring was being considered as a potential site for the school and requested that the Council consider withholding any decision on the Parks and Recreation proposal for ninety days.

Chris Vargas, Bullis Charter School Site Committee Co-Chair, reiterated Jurvetson's request for Council to withhold any decision for ninety days and explained that this site was one of the top potential locations for the temporary facilities (three-five years) for the BCS.

Ruth McMann addressed Council. She gave an historical summary of the incorporation of the Town and the role that she had played in facilitating the process. She opposed the closure of the riding ring and explained its importance to the children of the community.

Bob Stutz, Elena Road, explained that the majority of the riding rings that used to serve the horseman of the community are gone. He purported that the Town's Riding Ring is an important asset to the community. It was built by volunteers and had always been maintained by volunteers. He added that horsemanship should be a continuing activity provided by the Town's Parks and Recreation Department.

Susan Cretekos, Rhus Ridge Road, commented that she used the Town's Riding Ring on a daily basis. She explained that she exercises her rescue horse at the ring and is a member of the Los Altos Hills Horseman's Association whose membership numbers two hundred and fifty. She identified eight others who use the ring on a regular basis.

Rebecca Hickman, Parks and Recreation Committee addressed Council. She acknowledged that she was a horseperson and understood that exploring other uses for the Riding Ring was an emotional issue but that the Parks and Recreation Committee was chartered to find ways to use the Town's land to benefit the greatest number of its citizens. The Committee had monitored the ring and determined that it was underutilized. Hickman added that the LAHHA had been contacted regarding the proposal. She noted that the Town's demographics had changed and the Committee had been investigating options for sports courts and other recreational facilities for the children of Los Altos Hills. Hickman added that this was not an effort by the Committee to usurp the historical past of the Town but the action reflects the changes and future of the Town. She noted that there was a proposal before the Council for their consideration for the Parks and Recreation Committee to explore the recreational options for the ring and hoped the Council would consider approving the request.

Mayor O'Malley thanked Hickman for the work the Committee had done on behalf of the community.

Jim Abraham, Viscaino Road, commented that it was his opinion that the Riding Ring was not maintained and had little utilization and presented a liability to the Town. He supported approval of the Parks and Recreation Department's request, adding that there were no facilities in the Town for the children of the community.

Carol Gottlieb, Summerhill, explained that she believed the future of the Riding Ring should be re-evaluated. She noted that the Parks and Recreation Committee is encouraging children to enjoy riding and believed the option of retaining the ring and maintaining its condition should be considered. Gottlieb added that the ring was a central location and keeping the ring would not cost the Town.

Marilyn McCain, Darling Way, supported keeping the ring. She used the ring with her children and grandchildren. McCain suggested Council look at the use of new materials for the ring that would accommodate multiple uses.

Carol Gottlieb suggested that the Los Altos School District fields be explored for a joint use with the Town for recreational facilities.

CLOSED PUBLIC COMMENT

Council discussion ensued regarding the proposal. Council agreed, given the public testimony, to defer a final decision on the request from the Parks and Recreation Committee to seek proposals for the development of recreational facilities to replace the Town Riding Ring for ninety days and to revisit the request at that time. Council noted that this would give the Los Altos Hills Horseman's Association and the Bullis Charter School an opportunity to forward their proposals for the site.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed by the following roll call vote to delay decision on agenda item 5.2 Consideration of Parks and Recreation Committee's Recommendation to Develop Recreation Facilities at the Town Riding Ring for ninety days.

AYES: Mayor O'Malley, Mayor Pro Tem Kerr, Councilmember Cheng, Councilmember Fenwick and Councilmember Warshawsky

NOES: None

ABSENT: None

ABSTAIN: None

5.3 Proposed Franchise Agreement between the Town of Los Altos Hills and Comcast for Cable Services

Mayor O'Malley reordered the agenda to allow participation by the Town's consultant in the discussion of agenda item 5.3.

City Manager Maureen Cassingham introduced this item to Council. Before Council for their consideration was the proposed cable system franchise agreement between the Town of Los Altos Hills and Comcast. Cassingham presented an overview of the negotiation process that had resulted in the proposed agreement including the engagement of Telecommunications Management Corporation (TMC) to facilitate the refranchising process and the numerous negotiating sessions conducted by the Town's negotiating team consisting of Councilmember Fenwick, City Manager Cassingham and TMC President Carl Pilnick and Comcast representatives. During this period, the Town has held community meetings to accommodate public input and Council had adopted a new Cable Ordinance.

Cassingham explained that the key issues Council had directed be addressed in the agreement had been resolved and accepted by Comcast. These included 1) cable service to all homes in the public rights-of-way, 2) grants from Comcast towards the acquisition and replacement of cablecast studio equipment - eighty thousand dollars (\$80,000) within sixty days of the execution of the agreement for equipment for the new Town Hall and sixty thousand dollars (\$60,000) for equipment replacement on the ninth anniversary of

the agreement; 3) a shared government channel/education channel with the Community College Network which will feature Town override capability with a second channel provided when Town programming on the channel warrants it; and 4) Comcast committed to cost sharing the consulting fees from TMC to fifteen thousand dollars (\$15,000).

Cassingham noted that representatives from Comcast and TMC were available to answer any questions from Council. She thanked Councilmember Fenwick for his support and participation during the protracted negotiations and public meetings.

Councilmember Warshawsky requested clarification on the responsibility of Comcast to participate in any undergrounding projects by the Town. Cassingham explained that at such time the Town requires other utilities to underground, Comcast would be required to participate.

Mayor Pro Tem Kerr requested additional information on the government channel space and the option of sharing space. Carl Pilnick, President Telecommunications Management Corporation, explained that the agreement does not preclude the Town from sharing programming time on the Community College channel as long as it is considered public education or government programming.

Kerr questioned how private streets would be served under the proposed franchise agreement. He noted that he had received calls from residents on Tanglewood, which was not listed in the agreement as one of the streets to be served. Pilnick acknowledged that the Town did not have the ability nor jurisdiction under the regulatory structure to require cable providers to serve without public rights-of-way. The discussion for service on private streets was between the resident and Comcast and they may charge what the market would bear. The agreement provides a mechanism for those residents on private streets

Kathi Noe, Government Affairs Director for Comcast addressed Council. She explained that Comcast needed to recover their costs for cable installation and the very expensive build. Noe added that the franchise agreement included a process for residents on private streets to be served. When fifty percent of the homes on a private street request service, Comcast would provide a cost estimate for the service. Comcast requests that the residents assist with the acquisition of the necessary easements.

Carl Pilnick noted that with the agreement Comcast would be extending service throughout the Town and this could potentially reduce the cost to private streets.

Councilmember Fenwick expressed his belief that this was a reasonable agreement. He understood Mayor Pro Tem Kerr's desire to establish the costs to residents on private streets but that this not within the scope of the Town's purview or practical.

MOTION SECONDED AND CARRIED: Moved by Fenwick, seconded by Warshawsky and passed by the following roll call vote to adopt Resolution No. 80-04 approving and authorizing execution of a cable system franchise agreement between the Town of Los Altos Hills and Comcast of California/Pennsylvania/Washington, Inc.

AYES: Mayor O'Malley, Mayor Pro Tem Kerr, Councilmember Cheng,
Councilmember Fenwick and Councilmember Warshawsky
NOES: None
ABSENT: None
ABSTAIN: None

6. NEW BUSINESS

None

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND
COUNCILMEMBERS ON OUTSIDE AGENCIES

Councilmember Warshawsky reported that the Joint Community Volunteer Service Awards luncheon was scheduled for December 3, 2004 and encouraged everyone to attend.

Councilmember Warshawsky reported that he had been invited to participate in a conflict resolution process that was being funded by the Los Altos Community Foundation. Facilitator Geoff Ball is leading the group that is comprised of representatives from Los Altos and Los Altos Hills for discussions on the Bullis Charter School and Los Altos School District. He suggested that he would like to share the meeting attendance obligations with Jean Mordo. Council concurred.

Mayor O'Malley reported that he had attended the Lower Peninsula Flood Control and Watershed Advisory Board meeting. It was his final meeting as Chair. SCVWD Board Member Greg Zlotnick advised the group that the State had taken approximately 25 million in revenue from the District. This action would create some budget restraints for the District. O'Malley did not know if this would affect the Adobe Collaborative Project.

8. STAFF REPORTS

8.1 City Manager

8.2 City Attorney

8.3 City Clerk

8.3.1 Report on Council Correspondence

9. COUNCIL-INITIATED ITEMS

None

10. PRESENTATIONS FROM THE FLOOR

OPENED PRESENTATIONS FROM THE FLOOR

Jim Abraham, Viscaino Road, thanked Councilmember Bob Fenwick for his leadership and voice of reason during his four year tenure on the City Council. He added that many of Councilmember Fenwick's Mayoral Goals had come to fruition and that his goal for the undergrounding of utilities was "almost there" with a pilot project.

Daniel Seidel, Purissima Road, addressed Council. He explained that his property was served by a septic system that was approximately fifty years old. In 1999, his neighbor, Mr. Wheatley, abandoned his septic system and connected to the Town's system. Seidel noted that he and three of his neighbors now wish to utilize this manhole and connect to the sewer system which is located in the Palo Alto Sewer Basin and does have available capacity rights. He added that he was before Council to request relief from design changes to the previously approved plans that are now being required by the Town's Engineer Dave Ross. Seidel added that the new requirements, would prove very costly and would set a bad precedent for residents wishing to abandon their septic systems and connect to the sewer. Seidel set-up a site plan display to review the design with Council. He expressed his opinion that the requirement to provide four separate individual discharge pipes to the connection point at Concepcion and Purissima instead of a common pipe would be difficult to maintain. Seidel added that the new requirement to encase the pipe instead of a single pipe would be more difficult to inspect and maintain. He also objected to the request from Staff to locate the pipe on Mr. Wheatley's property instead of in the public right-of-way. He concluded that he was proposing a very simple, economical and easily maintainable sewer connection that minimizes intrusion into private property.

Robert Wheatley, Purissima Road, explained that he had worked with the Town when he built his home to lay extra pipe for the proposed sewer connection. He was opposed to the new requirements that would force him to remove his existing landscaping and screening to accommodate other resident's pipe lines through his property. Wheatley hoped Council would support the original plan that called for a single line located in the public right-of-way.

Edward Hayes, Purissima Road, stated that he was Wheatley's neighbor. He had problems with his septic system and had initiated a sewer project with Wheatley and shared common costs but due to unforeseen economic circumstances he was not able to connect. He would now like to finish his project along with his neighbors. Because of Seidel's professional experience, Seidel had taken the lead in putting together a plan that used accepted practices and materials. Hayes saw no benefit to adapting to the new requirements imposed by the City Staff and requested that the Town honor his original proposal.

David Yen, Purissima Road, explained that he was a relatively new resident to the Town and had formally lived in Woodside. He noted that he was very pleased to have Daniel Seidel, a professional engineer in the area of sewer system designs, as a neighbor who could assist him with a safe and environmentally appropriate design. Yen expressed his confidence with the proposed sewer project.

Su Tang, Purissima Road, explained that she trusts Mr. Seidel and respected his knowledge and hoped the City Council would approve the project.

Councilmember Fenwick noted that any discussion of this item under Presentations from the Floor by the staff or Council would be inappropriate. The item was not on the meeting agenda.

City Attorney Steve Mattas explained that Council could refer the matter to staff and have them report back as an agenda item at a future meeting or staff could make a brief response but any substantive comments would not be appropriate.

Acting City Engineer David Ross noted that he had meet with the applicants several times. He concurred that it was important for the residents to get relief from their septic systems but noted that there have been recent changes by resource agencies that necessitated these new requirements. Ross explained that the concern is to contain any leaks in the line. He offered that staff would continue to work with the applicants to try to find an economical solution and report back to Council.

Nancy Couperus, Open Space Committee, informed the City Council that a memorial bench honoring Richard Lamparter had been purchased with funds from the Richard Lamparter Memorial Fund. It had been located near Westwind Barn with views of Byrne Preserve. She invited Council and the Community to join the Open Space Committee and Community Relations Committee in the dedication of the bench on Friday, November 26th at 11:00 am.

Roger Spreen, Open Space Committee Chair, addressed Council. He reported that he was pleased to inform the Council that Lois Crosier Hogle, noted environmentalist, had decided to voluntarily offer a conservation easement on her property covering her eleven acre property as part of her estate planning. The easement would be a notable and noticeable accomplishment for the Town and hopefully encourage other voluntary conservation easements. Spreen explained that the property backs up the Stanford lands, was rural, wooded and in it's natural condition with gardens and a home both designed by renown architects. Without the conservation easement, the property could potentially be subdivided into eight lots but with the easement, it would remain a private residence. Staff had visited the site and assisted with the conservation easement agreement. Spreen noted that he was before Council to give them advance notice of the proposed conservation easement which would eventually be before them for consideration of acceptance and to request funds for a physical survey that would be used as baseline documentation for the agreement. The Open Space Committee had received a proposal from Mark Thomas & Company for \$13,200 to perform the survey. The Committee had approximately \$9,000 in their budget and requested Council consider subsidizing the additional amount.

Councilmember Warshawsky acknowledged that he had visited the site and concurred with Spreen's assessment that the easement would be an asset to the Town.

Mayor O'Malley thanked the Committee for their efforts and requested that their request for funding be scheduled for consideration at the December 2, 2004 City Council meeting.

CLOSED PRESENTATIONS FROM THE FLOOR

11. PUBLIC HEARINGS

None

Council adjourned to the Closed Session at 8:11pm.

12. CLOSED SESSION

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING
LITIGATION: Government Code Section 54956.9(a): Town of Los Altos Hills v.
Los Altos School District

The City Council reconvened to the Regular City Council Meeting at 8:13pm.

13. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:14 p.m.

Respectfully submitted,

Karen Jost
City Clerk

The City Council Meetings were approved as presented at the Regular City Council meeting of December 2, 2004.